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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,909	12/02/2005	Uwe Bornmann	2005_0772A	9735
513	7590	01/08/2008	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			TOLIN, MICHAEL A	
2033 K STREET N. W.			ART UNIT	PAPER NUMBER
SUITE 800			1791	
WASHINGTON, DC 20006-1021			MAIL DATE	DELIVERY MODE
			01/08/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/533,909	BORNMANN ET AL.
Examiner	Art Unit	
Michael A. Tolin	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 02 December 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) 1-6, 8 and 9 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 7 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5-5-2005.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-6, drawn to a method of making geotextiles.

Group II, claim(s) 7, drawn to geotextiles.

Group III, claim(s) 8 and 9, drawn to a method of using geotextiles.

2. The inventions listed as Groups I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The common technical feature between the identified groups is a fabric formed from at least two melt spun filament layers, each layer comprising largely parallel filaments, wherein the filaments of the first layer are oriented in a mirror inverted direction with respect to the filaments of the second layer. Such fabrics are known in the art. See Zeldin (US 5225018); Figure 5; column 7, lines 51-65; column 8, lines 18-44. See Boich (US 4999080); Figures 2-5; column 2, lines 41-53; column 3, lines 56-68; column 4, lines 1-4. Thus the common technical feature does not constitute a

special technical feature which distinguishes the identified groups over the prior art, and accordingly restriction is considered proper.

3. During a telephone conversation with Matthew Jacob on 06 December 2007 a provisional election was made with traverse to prosecute the invention of Group II, claim 7. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-6, 8, and 9 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Information Disclosure Statement***

5. The information disclosure statement filed 05 May 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Copies of the 2 foreign references listed on the IDS have not been provided. These documents have been crossed off the IDS and have not been considered. The remaining documents have been initialed and considered.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 is directed to a product formed by the method of claim 1. In claim 1, the term "the melt-spun filaments" lacks proper antecedent basis. Also in claim 1, it is unclear exactly what is included by the phrase "in the same manner" in line 4. The examiner suggests replacing this phrase with language which indicates that filaments of the second laydown are laid down largely parallel to each other through guide plates wherein the filaments are laid down at an angle adjustable through the guide plates. Further regarding claim 1, it is not clear whether "largely parallel" is directed to the filaments or the guide plates. The examiner suggests using language which clearly indicates that it is the filaments which are largely parallel next to one another. Further regarding claim 1, the scope of "such that it is mirror-inverted" is unreasonably vague. What is mirror inverted with respect to what? What is the reference line along which

these two things are mirror inverted? The examiner suggests adding language to include a clear reference line along which the filaments of the first layer and the filaments of the second layer are laid in a mirror inverted orientation.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Zeldin (US 5225018) or Boich (US 4999080), optionally in view of Mohammed (US 5747134) as evidence of inherency.

Claim 7 requires a fabric formed from at least two melt spun filament layers, each layer comprising largely parallel filaments, wherein the filaments of the first layer are oriented in a mirror inverted direction with respect to the filaments of the second layer. Such fabrics are clearly taught by Zeldin (Figure 5; column 7, lines 51-65; column 8, lines 18-44) or Boich (Figures 2-5; column 2, lines 41-53; column 3, lines 56-68; column 4, lines 1-4). While Boich does not recite guide plates, product-by-process claims are only limited to the structure implied by the method steps, not the actual method steps. See MPEP 2113. There is no evidence of record to suggest the claimed product is structurally different than that taught by Boich. As to the capability of being used as a

geotextile, fabrics formed from nonwoven webs of continuous fibers are commonly used as geotextiles. Thus this capability is inherent in the fabrics of Zeldin or Boich. Mohammed is cited as evidence for the examiner's assertion of inherency. Mohammed explains that various nonwoven materials including continuous fiber nonwovens are preferred for geotextile applications (column 1, line 60-65).

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael A. Tolin whose telephone number is 571-272-8633. The examiner can normally be reached on M-F 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michael A. Tolin



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